



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

45

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/551,706	04/18/00	UBEL F	55019 USA 1A

QM32/1105

ATTENTION: STEPHEN W BAUER ESQ
OFFICE OF INTELLECTUAL PROPERTY COUNSEL
3M INNOVATIVE PROPERTIES COMPANY
P O BOX 33427
ST PAUL MN 55133-3427

EXAMINER

ARNOLD III, T

ART UNIT

PAPER NUMBER

3728

10

DATE MAILED: 11/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/551,706

Applicant(s)
Ubel et al

Examiner
Troy Arnold

Art Unit
3728



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Sep 11, 2001

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1, 2, 4-23, 25-32, 38-46, 61, and 62 is/are pending in the application

4a) Of the above, claim(s) _____ is/are withdrawn from consideration

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1, 2, 4-23, 25-32, 38-46, 61, and 62 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

20) ☐ Other:

Art Unit: 3728

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura and also by International Patent WO 96/20884 to Cernohous. Nakamura teaches an apparatus comprising a pouch 10 with two ends, a length, and an interior, and a moisture sensitive product 3 having a continuous length, the product 3 being folded into a configuration comprising a plurality of sections in the interior and along the pouch length, each section comprising two folds and a segment spanning therebetween, the segment also extending along the pouch length. See Fig 13. Note that the product 3 is may be defined as "moisture sensitive" in the broadest sense of the word; the moisture content of the product 3 directly affects its function and usability. **Also note that a given segment of the product 3 as it is shown in Fig 13 will extend to some degree along the pouch length.** Cernohous teaches an apparatus comprising a pouch 10 with two ends and an interior, and a moisture sensitive product 22 having a continuous length, the product 22 being folded into a configuration comprising a plurality of sections in the interior along the length, each section comprising two folds and a segment spanning therebetween, the segment also extending along the pouch length. See Fig 1.

Art Unit: 3728

Claims 2, 5-9, 13-15, 17-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakamura. Nakamura clearly teaches claims 2, 5, 7, 14, 15 and 17-20 in Fig 13. Regarding claim 6, the pouch is defined as being impervious in the Abstract. Regarding claim 8, item 14 may function as a compression device. Regarding claim 9, item 14 is located on the exterior of the pouch. Regarding claim 13, item 14 will also function as a sealing device. Regarding claim 22, see item 19.

Claims 1, 2, 4-10, 12-16, 25-28, 32, 38-46, 61 and 62 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker et al, US Patent No. 5,003,970. **Regarding claim 1, Parker teaches an apparatus 30 comprising a pouch 31 with two ends, a length and an interior, and a moisture sensitive product 14 having a continuous length (the roll), and being folded into a packaged configuration (Fig 14) comprising a plurality of sections (the layers seen in Fig 13) arranged within the interior and along the pouch length (seen in Fig 13), each section comprising two folds (at the edges) and a spanning segment (the middle portion of a layer) which extends along the pouch length. See Figs 8 and 13. Claims 2 and 4-10 are clearly met by Parker. Regarding claim 2, Parker's pouch 31 comprises an opening 33 proximate the first end, which clearly permits access to the interior of the pouch. Regarding claim 4, see the last five lines of the Abstract of Parker. Regarding claim 5, see Fig 13, where the layers of the product appear to be identical. Regarding claim 6, see the first line of the Abstract of Parker, where the pouch 31 of Parker is taught to be moisture-impervious. Regarding claim 7, it appears to be clear from Fig 14, that the product length will be at least two times the pouch length. Item 36 meets all of the limitations claimed in claims 8-10;**

Art Unit: 3728

item 36 is a compression device proximate the opening 33, which is located on the exterior of the pouch, and it comprises two opposing compressible members biased towards one another. Regarding claim 12, item 36 will clearly conform the shape of the pouch to the shape of the product. Regarding claim 13, item 36 functions as a sealing device. **Regarding claim 14, see Fig 15 where the pouch width appears to be substantially constant along the length, from the end at 33 to the other end. Regarding claim 15, see Fig 13, where a cross section of the product has two folds and a segment in between. Regarding claim 16, the cross section of the product 14 shown in Fig 13, shows an elongated "S" shape. Regarding claim 25, Parker teaches an apparatus 10 comprising a pouch 32 comprising an interior, and a compression device 36 which couples to the pouch first end, and has two opposing members, and which will shape the end of the pouch to the shape of the product. See Fig 11 or 15. Claims 26-28 and 38-41 are clearly met by Parker, as are claims 44-46. Regarding claim 26, Parker's pouch 31 comprises an opening 33 proximate the first end, which clearly permits access to the interior of the pouch. Regarding claim 27, the sealing device 36 of Parker will substantially seal the opening 33. Regarding claim 28, the flat portions of item 36 form a parallel closure device. Regarding claim 32, the compression members (opposing flat portions) of item 36 of Parker will conform the shape of the end of the pouch to the shape of the product. Regarding claim 38 and 39, see the last five lines of the Abstract of Parker. Regarding claim 40, the first and second compression members of item 36 are biased towards one another and at least one is compressible. Regarding claim 41, Parker's pouch 31 is elongated and the compression device 36 is selectively movable along the length. Regarding claim 42, Parker teaches a**

Art Unit: 3728

closure apparatus 36 comprising a compression device comprising two opposing compression members (the two curved arms of the device), and a sealing device coupled to the compression device, comprising opposed sealing members (the flat pressing sections of the device) wherein the sealing members are movable between open and closed positions. Regarding claim 43, the semi-circular portion of the device 36 is a frame assembly which couples the compression and sealing devices together. Regarding claim 44, the pouch 31 has a first end and an opening 33, the closure apparatus 36 securable proximate the first end. Regarding claim 45, the compression members of item 36 will shape the pouch to the shape of the product. Regarding claim 46, the sealing device 36 will seal the opening of the pouch. Regarding claim 61, Parker teaches an apparatus 30 comprising a pouch 31 with two ends, a length and an interior, and a moisture-curable orthopedic splinting/casting product 14 having a continuous length (the roll), and being folded into a packaged configuration (Fig 14) comprising a plurality of sections (the layers seen cross-wise in Fig 13) arranged within the interior and along the pouch length (seen in Fig 13), each section comprising two folds (at the edges) and a spanning segment (the middle portion of a layer) which extends along the pouch length. Regarding claim 62, Parker teaches an apparatus 30 for storing and dispensing a continuous length of moisture sensitive product 14, the apparatus comprising: a pouch 31 with an interior and a first end, and a compression device 36 comprising first and second opposing compressible members (the flat portions of item 36) which will shape the first end of the pouch to the shape of the product.

Art Unit: 3728

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura. It would have been obvious to one of ordinary skill in the art at the time the invention was made to move the suspension member 19 of Nakamura to either end of the pouch 10 for the purpose of better suiting the dispensing process to a given position or orientation.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker in view of Ausnit. Parker teaches all the limitations of claim 29 except the female member receiving the male member so that the pouch is trapped between. Ausnit teaches a pouch locking system which has male and female members and which lock a pouch between the two. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the male/female sealing device into that of Parker in order to produce a tighter seal.

Claims 11, 21, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker. Regarding claim 11, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate foam padding into the compression members of item 36 in order to prevent damaging the pouch 32. Regarding claims 21, 30 and 31, it would have been obvious to one of ordinary skill to attach a suspension member to an end of the pouch in order to hang the pouch for dispensing.

Art Unit: 3728

Response to Arguments

Applicant's arguments filed September 11, 2001 have been fully considered but they are not persuasive. Regarding the application of Nakaumura to claim 1, contrary to the remarks at the top of page 5, it is maintained that Nakamura does in fact teach segments (one quarter of a "square" section) which will have a component which extends upwardly, along the pouch length. This occurs due to the helical arrangement of product 3 in the pouch 10. Regarding the Cernohous reference, while each segment extending between the folds appears to be horizontal, it has a component (its thickness) which clearly extends along the pouch thickness. Regarding the application of the Parker reference to claim 1, contrary to the remarks on page 6, it is maintained that Parker teaches all the specific limitations claimed, as noted in boldface in the rejection in the middle of page 3 above. The flat folded layers of Parker clearly have folds and extend along the pouch length. Contrary to the remarks made at the bottom of page 6, it is maintained that the compression device 36 of Parker is clearly adapted to conform the shape of the pouch to the shape of the product. It appears to be doing just that in Fig 11. Regarding the remarks on page 7 concerning claim 42, it is maintained that Parker's item 36, which has a curved, semi-circular part, which is being called the compression device, has two opposing compression members, as, for example, a single contiguous building, might have multiple wings. Regarding the request made at the bottom of page 7, see the rejections which have been elaborated upon, in boldface above, so as to hopefully be clearer to the Applicant. Regarding the argument at the top of page 9, it is maintained that it would have been obvious to one of ordinary skill in the art at the time

Art Unit: 3728

the invention was made to incorporate foam padding into the compression members of Parker's item 36 in order to prevent damaging the pouch 31.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

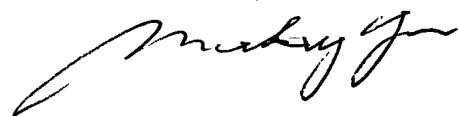
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3728

Any specific inquiries concerning this communication or earlier communications from the Examiner may be directed to Troy Arnold at (703) 305-0621. The Examiner can normally be reached Monday through Friday 9:30am - 6pm EST. Official responses may also be faxed directly to Tech Center 3700 at (703) 872-9302, and after final responses to (703) 872-9303. Questions of a general nature may be directed to the Group Receptionist at (703) 308-1148. Tech Center 3700 Customer Service may also be reached at (703) 306-5648.

Troy Arnold

November 1, 2001



Mickey Yu
Supervisory Patent Examiner
Group 3700